UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,953	11/26/2001	Tosiyasu L. Kunii	13826	5231

293   7590   03/15/2011
DOWELL & DOWELL P.C.
103 Oronoco St.
Suite 220
Alexandria, VA 22314

EXAMINER
THEIN, MARIA TERESA T

ART UNIT	PAPER NUMBER
3627	

MAIL DATE	DELIVERY MODE
03/15/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

1   UNITED STATES PATENT AND TRADEMARK OFFICE

2   _____

3

4   BEFORE THE BOARD OF PATENT APPEALS

5   AND INTERFERENCES

6   _____

7

8   *Ex parte* TOSIYASU L. KUNII

9   _____

10

11   Appeal 2009-011278

12   Application 09/991,953

13   Technology Center 3600

14   _____

15

16   Before MURRIEL E. CRAWFORD, ANTON W. FETTING, and JOSEPH

17   A. FISCHETTI, *Administrative Patent Judges.*

18   FETTING, *Administrative Patent Judge.*

19   DECISION ON APPEAL[1]

20

---

[1] The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE" (paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

1   STATEMENT OF THE CASE[2]

2   Tosiyasu L. Kunii (Appellant) seeks review under 35 U.S.C. § 134

3   (2002) of a final rejection of claims 6-17 and 23-25, the only claims pending

4   in the application on appeal. We have jurisdiction over the appeal pursuant

5   to 35 U.S.C. § 6(b) (2002).

6   The Appellant invented a method, apparatus, system, database, or the

7   like for supporting electronic commerce or any business using a network.

8   Specification 1:12-17.

9   An understanding of the invention can be derived from a reading of

10 exemplary claim 23, which is reproduced below [bracketed matter and some

11 paragraphing added].

12   23. An electronic commercial transaction supporting method,
13   comprising:

14   [1]   providing an e-mall having at least one e-shop, including:

15   [a]   an e-merchandise database, and

16   [b]   an attribute correspondence table;

17   [2]   recording, within the e-merchandise database, an initial
18   set of product attributes associated with a plurality of products;

---

[2] Our decision will make reference to the Appellant's Appeal Brief ("App. Br.," filed November 19, 2007) and Reply Brief ("Reply Br.," filed January 27, 2009), and the Examiner's Answer ("Ans.," mailed November 28, 2008), and Final Rejection ("Final Rej.," mailed April 19, 2007).

1　　　　[3]　　receiving a first customer query from a first e-customer
2　　　via a network, said query including a set of first search
3　　　attributes;

4　　　　[4]　　presenting, to the first e-customer, first product results
5　　　including at least one product selected from the plurality of
6　　　products, the first product results based on:

7　　　　　　[a]　　the initial set of product attributes, and

8　　　　　　[b]　　the first search attributes;

9　　　　[5]　　detecting if the first e-customer purchases a first product
10　　　selected from the first product results;

11　　　　[6]　　determining if any attributes of the first search attributes
12　　　did not previously exist in the attribute correspondence table,
13　　　and for each such attribute:

14　　　　　　[a]　　defining such attribute as a new attribute, and

15　　　　　　[b]　　recording at least one new correspondence
16　　　relationship between the new attribute and a product attribute
17　　　that is associated with the first product in the attribute
18　　　correspondence table; and

19　　　　[7]　　for at least one iteration:

20　　　　　　[a]　　receiving a subsequent customer query from a
21　　　subsequent e-customer, said subsequent customer query
22　　　including a set of subsequent search attributes;

23　　　　　　[b]　　presenting, to the subsequent e-customer,
24　　　subsequent product results including at least one product
25　　　selected from the plurality of products, the subsequent product
26　　　results based on:

27　　　　　　　　[i]　　the initial set of product attributes,

28　　　　　　　　[ii]　　the subsequent search attributes, and

29　　　　　　　　[iii]　　the correspondence relationships recorded in
30　　　　　　the attribute correspondence table;

31　　　　　　[c]　　detecting if the subsequent e-customer purchases a
32　　　subsequent product selected from the subsequent product
33　　　results;

1   [d]   determining if any attributes of the subsequent
2   search attributes did not previously exist in the attribute
3   correspondence table, and for each such attribute:

4   [i]   defining such attribute as a new attribute,
5   and

6   [ii]   recording at least one new correspondence
7   relationship between the new attribute and a product
8   attribute that is associated with the subsequent product in
9   the attribute correspondence table.

10

11

12   The Examiner relies upon the following prior art:

Bauer et al.   US 5,926,816   Jul. 20, 1999

Bowman et al.   US 6,169,986 B1   Jan. 2, 2001

Ng   US 6,405,175 B1   Jun. 11, 2002

13

14   Claims 6-14 and 23-24 stand rejected under 35 U.S.C. § 103(a) as

15   unpatentable over Bowman and Ng.

16   Claims 15-17 and 25 stand rejected under 35 U.S.C. § 103(a) as

17   unpatentable over Bowman, Ng, and Bauer.

18

19   ISSUES

20   The issue of whether the Examiner erred in rejecting claims 6-14 and 23-

21   24 under 35 U.S.C. § 103(a) as unpatentable over Bowman and Ng turns on

22   whether Bowman and Ng fail describe limitation [7][d][ii] of claim 23.

23   The issue of whether the Examiner erred in rejecting claims 15-17 and

24   25 under 35 U.S.C. § 103(a) as unpatentable over Bowman, Ng, and Bauer

25   turns on whether Bauer describes detecting contradicting correspondence

1 relations and keeping the more appropriate correspondence relation, while

2 deleting the other correspondence, as required by claim 25, and whether a

3 person with ordinary skill in the art would have been motivated to combine

4 Bowman, Ng. and Bauer.

5

6   FACTS PERTINENT TO THE ISSUES

7   The following enumerated Findings of Fact (FF) are believed to be

8 supported by a preponderance of the evidence.

9   *Facts Related to the Prior Art*

10   *Bowman*

11   01.   Bowman is directed to techniques for facilitating the process of

12   refining search queries. Bowman 1:13-16. The refinement

13   process is exemplified by a search engine used to assist customers

14   of Amazon.com in locating products such as books and CDs.

15   Bowman 5:9-12. Bowman describes a system where related terms

16   are generated using query term correlation data based on historical

17   query submissions to a search engine. Bowman 2:32-34. The

18   query term correlation data is preferably based on the frequencies

19   with which specific terms have been historically submitted

20   together within the same query. Bowman 2:34-38. Each entry in

21   the correlation table has two components, a key term and related

22   terms. Bowman 7:1-4. Related terms list is a list of query terms

23   that have appeared within the same query as the keyword with the

24   highest degree of frequency and are ordered by frequency.

1   Bowman 7:4-7. A query correlation table is built using daily log

2   files. Bowman 8:40-41. A user enters search terms for a product

3   based on the title, subject, etc. Bowman 7:23-25. The web server

4   applies the query to the bibliographic database and related term

5   selection process and returns the query listing results to the user.

6   Bowman 7:42-61. The table generation process maps each query

7   key term to the related terms used in that particular query.

8   Bowman 10:48-50. For example, a query of "Rough Guide to

9   London" correlates the terms "Guide," "to," and "London" to the

10   key term "Rough." Bowman 10:57-64. Another example is the

11   search for "Cosmos Astronomy," where cosmos is in the title of

12   the product and astronomy is the subject of the product. Bowman

13   7:32-38. The system ignores unsuccessful query submissions,

14   where a successful query submission results in which the item

15   count is greater than zero. Bowman 10:1-12. In addition, the

16   amount by which the correlation scores are incremented may be

17   increased or decreased depending on different actions performed

18   by the user, including the action of the user purchasing an item or

19   adding the item to the shopping cart. Bowman 11:35-49. The

20   correlation table merges daily log file results for a specified

21   number of days and replaces the existing query correlation table.

22   Bowman 9:52-53.

23   *Ng*

24   02.   Ng is directed to a customer rewards program. Ng 1:10-12. Ng

25   is concerned with providing users the ability to find products and

26   price information in a simple manner. Ng 3:1-6. Ng describes a

1   system that includes a searchable database that contains

2   information submitted by reward users and writes information to a

3   target record after submission. Ng 3:23-28.

4   *Bauer*

5   03.   Bauer is directed to a database synchronizer that facilitates the

6   sharing of data in systems that have client-side and server-side

7   applications that are not continuously connected to a single shared

8   data source. Bauer 1:58-62. First, the client determines what

9   modifications to the client data have taken place since the last time

10   of synchronization. Bauer 2:7-9. Modifications include the

11   creation of a new data item, an update to the value of an existing

12   data item, and the deletion of a data item. Bauer 2:9-12. Second,

13   modifications are propagated to the server, which has determines

14   what changes have taken place to the server data since the last

15   time of synchronization. Bauer 2:16-19. Third, the server detects

16   data conflicts, resolves them, and propagates modifications back

17   to the client. Bauer 2:19-21. Conflicts are resolved in favor of

18   either the server or client so proper values are stored in the

19   server's database. Bauer 4:10-12.

20

21   ANALYSIS

22   *Claims 6-14 and 23-24 rejected under 35 U.S.C. § 103(a) as*

23   *unpatentable over Bowman and Ng*

1   The Appellant first contends that Bowman and Ng fail to describe

2   limitations [6] and [6][b] of claim 23. App. Br. 14-20 and Reply Br. 2-3.

3   The Appellant specifically argues that Bowman and Ng fail to describe

4   creating new relationships between new attributes and products based on a

5   user's purchasing decision. App. Br. 16-19 and Reply Br. 2-3. We disagree

6   with the Appellants.

7   The Appellant argues that the Examiner failed to map where Bowman

8   describes each of the limitations of claim 23 and therefore we begin with an

9   analysis of each of the limitations. App. Br. 15. Limitation [1] requires

10   providing an e-mall having at least one e-shop including an e-merchandise

11   database and an attribute correspondence table.

12   Bowman describes an e-mall, such as Amazon.com, that has a database

13   of products and a correspondence table to assist users in searching for

14   products. FF 01. Limitation [2] requires an initial set of product attributes

15   associated with products. Bowman describes a correspondence table that

16   has search terms associated to products. FF 01. The correspondence table

17   includes product attributes, such as product title and product subject. FF 01.

18   Limitation [3] requires receiving a first customer query including a set of

19   first search attributes. Bowman describes that a user enters search terms for

20   products and includes product attributes such as the product title or subject.

21   FF 01.

22   Limitation [4] requires presenting the results to the user based on the

23   initial and search attributes. Bowman describes that a web server applies the

24   search query to the bibliographic database and the correspondence table and

25   returns the query results list to the user. FF 01.

1   Limitation [5] requires detecting if the user purchases a product from

2   the results list. Bowman describes that the scores in the correlation table are

3   adjusted based on a user's action, including the action of the user purchasing

4   a selected item from the query result list. FF 01.

5   Limitation [6], [6][a], and [6][b] require determining whether the

6   attribute did not previously exist in the attribute correspondence table,

7   defining such an attribute as a new attribute, and recording at least one new

8   correspondence relationship between the new attribute and a product

9   attribute that is associated with the first product in the attribute

10   correspondence table. Bowman describes that search queries are captured in

11   daily log files and after a specified number of days the daily log file are

12   parsed to create a new correspondence table. FF 01.

13   Since the correspondence table is created from the new daily log files, all

14   of the new associations between the terms and products in the daily log files

15   are new associations. Limitation [7] further requires iterations of limitations

16   [1] – [6] including the newly associated terms and products. Bowman

17   describes that all of these steps are repeated for a specified number of days

18   until a new correspondence table is created. FF 01. As such, Bowman

19   describes each of the limitations of claim 23.

20   The Appellant further argues that refining a search query is distinctly

21   different from recording a new correspondence relationship between a new

22   attribute and a product attribute because refining a search query only adds

23   new related search terms that already have some relation to the search terms

24   in the bibliographic database. App. Br. 18.

1 However, Bowman explicitly describes that a new correspondence

2 relationships collected from daily log files replace existing relationships, as

3 discussed *supra*. FF 01. Bowman further describes that the web server

4 applies entered search terms against the bibliographic database *and* the

5 correspondence table to determine the query results listing. FF 01. As such,

6 each of the queries parsed in new daily log files is treated as a new attribute

7 and a new relationship between the terms and products is created.

8 The Appellant also contends that Bowman and Ng teach away from the

9 claimed invention. App. Br. 20. The Appellant specifically argues that

10 Bowman fails to describe new attributes related to products, Bowman

11 teaches away from a symmetric relationship in terms of correspondence

12 between key terms and related terms, as required by claim 6, and Ng fails to

13 describe the type of associations between attributes and products. App. Br.

14 20 and 22-23. We disagree with the Appellants.

15 First, Bowman describes new attributes related to products as discussed

16 *supra*. Furthermore, the Appellant's arguments only illustrate alleged

17 deficiencies in Bowman (as discussed *supra*) and Ng (discussed *infra*) but

18 fail to specifically provide any rationale as to why Bowman or Ng teach

19 away from the claimed invention. As such, the Appellant's arguments

20 regarding Bowman and Ng teach away from the claimed invention are not

21 found persuasive.

22 The Appellant's contention that Ng fails to describe the type of

23 associations between attributes and products is also not found to be

24 persuasive because the Examiner has not relied on Ng to describe these

25 features in the rejection of claim 23. As such, the Appellant is responding to

1   the rejection by attacking the references separately, even though the

2   rejection is based on the combined teachings of the references.

3   Nonobviousness cannot be established by attacking the references

4   individually when the rejection is predicated upon a combination of prior art

5   disclosures. *See In re Merck & Co. Inc.*, 800 F.2d 1091, 1097 (Fed. Cir.

6   1986).

7   The Appellant further contends that Bowman and Ng fail to describe the

8   additional limitations of claim 24 and 6-14. App. Br. 21-23. We disagree

9   with the Appellant.

10   The Appellant's arguments regarding the limitations in claims 24 and 6-

11 14 are no more than general allegations that those limitations are not

12 described by Bowman and Ng. "It is not the function of this court to

13 examine the claims in greater detail than argued by an Appellant, looking for

14 nonobvious distinctions over the prior art." *In re Baxter Travenol Labs,* 952

15 F.2d 388, 391 (Fed. Cir. 1991). *See also In re Wiseman,* 596 F.2d 1019,

16 1022 (CCPA 1979) (arguments must first be presented to the board). A

17 general allegation that the art does not teach any of the claim limitations is

18 no more than merely pointing out the claim limitations. A statement which

19 merely points out what a claim recites will not be considered an argument

20 for separate patentability of the claim. 37 C.F.R. § 41.37(c)(1)(vii).

21

22   *Claims 15-17 and 25 rejected under 35 U.S.C. § 103(a) as unpatentable*

23   *over Bowman, Ng, and Bauer*

24   The Appellant first contends that Bauer fails to describe detecting

25 contradicting correspondence relations and keeping the more appropriate

11

1   correspondence relation, while deleting the other correspondence, as

2   required by claim 25. App. Br. 24-27. We disagree with the Appellant.

3   Claim 25 requires detecting a mutually-contradicting correspondence,

4   defining a false correspondence, and deleting the false correspondence from

5   the attribute correspondence table. Bauer describes a database

6   synchronization process that synchronizes data between a client and a server

7   in a system where the client is not continuously connected to the data source.

8   FF 03. Bauer further describes that the server detects conflicts in the data

9   values between the client and the server and resolves these conflicts in favor

10   of the client or server so that proper values are stored. FF 03. This implies

11   that the incorrect or false data values are deleted such that only the correct

12   data values are stored. As such, Bauer describes a database system that

13   detects contradicting correspondence values and resolves these conflicts

14   by keeping the correct value while deleting the false or incorrect value.

15   The Appellant further contends that a person with ordinary skill in the

16   art would not have been motivated to combine Bowman, Ng, and Bauer and

17   Bauer teaches away from Bowman and Ng. App. Br. 24-25. We disagree

18   with the Appellant.

19   Bowman, Ng, and Bauer are all concerned with maintaining accurate

20   information in a searchable database. FF 01-03. Bowman accomplishes this

21   goal by generating a correlation table of terms   of used in search queries to

22   increase the accuracy of the results displayed   to users. FF 01. Ng also

23   solves this problem by providing a searchable database that includes

24   information submitted by users. FF 02. Bauer further solves this problem

25   by providing a database synchronizer that resolves conflicting data to

1 maintain accurate information in a server's database.   FF 03. A person with

2 ordinary skill in the art would have been motivated to combine these

3 references in order to increase the accuracy of the content of the database

4 and provide users with accurate database search results. As such, Bowman,

5 Ng, and Bauer are concerned with the same problem and one of ordinary

6 skill in the art would have been lead to combine their teachings.

7

8   CONCLUSIONS OF LAW

9   The Examiner did not err in rejecting claims 6-14 and 23-24 under

10 35 U.S.C. § 103(a) as unpatentable over Bowman and Ng.

11   The Examiner did not err in rejecting claims 15-17 and 25 under

12 35 U.S.C. § 103(a) as unpatentable over Bowman, Ng, and Bauer.

13

14   DECISION

15   To summarize, our decision is as follows.

16   • The rejection of claims 6-14 and 23-24 under 35 U.S.C. § 103(a) as

17   unpatentable over Bowman and Ng is sustained.

18   • The rejection of claims 15-17 and 25 under 35 U.S.C. § 103(a) as

19   unpatentable over Bowman, Ng, and Bauer is sustained.

20   No time period for taking any subsequent action in connection with this

21 appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R.

22 § 1.136(a)(1)(iv) (2007).

23

1   <u>AFFIRMED</u>

2

3

4   JRG

5   DOWELL & DOWELL P.C.
6   103 Oronoco St.
7   Suite 220
8   Alexandria, VA 22314